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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

CLINTON BROWN,
Plaintiff,
v.
CLARK R. TAYLOR, AICP, THE
LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL
PLANNING,
Defendants.

Case No. 2:22-cv-09203-MEMF-KS

**[PROPOSED] ORDER RE:
DEFENDANT'S EVIDENTIARY
OBJECTIONS TO PLAINTIFF'S
STATEMENT OF DISPUTED
MATERIAL FACTS AND
EXHIBITS**

Judge: Hon. Karen L. Stevenson

Assigned to:
Hon. Maame Ewusi-Mensah Frimpong
Courtroom "8B"

Magistrate Judge Karen L. Stevenson
Courtroom "580"

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1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 After full and fair consideration of the moving and supporting papers and the
3 opposing papers, this Court finds as follows:

4 DEFENDANT'S EVIDENTIARY OBJECTIONS

Evidence	Grounds for Objections	Court's Ruling
<p>6 Evidentiary Objection</p> <p>7 No. 1:</p> <p>8 Plaintiff's P1/RJN to</p> <p>9 Plaintiff's Statement of</p> <p>10 Genuine Disputes of</p> <p>11 Material Facts by</p> <p>12 Nonmoving Party.</p> <p>13 (Dkt. No. 115-2).</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 ///</p> <p>22 ///</p> <p>23 ///</p> <p>24 ///</p> <p>25 ///</p> <p>26 ///</p> <p>27 ///</p>	<p><u>Federal Rule of Evidence ("FRE")</u></p> <p><u>901</u>, lacks foundation/authentication.</p> <p>Plaintiff's P1/RJN is not authenticated</p> <p>by any affidavits, declarations, or</p> <p>answers to discovery. Plaintiff's</p> <p>P1/RJN lacks foundation and is not</p> <p>authenticated.</p> <p><u>FRE 201</u>, P1/RJN is (1) not generally</p> <p>known within the Court's territorial</p> <p>jurisdiction and (2) can not be</p> <p>accurately and readily determined from</p> <p>sources whose accuracy cannot</p> <p>reasonably be questioned.</p> <p><u>FRE 1002</u>, Best evidence rule.</p> <p><u>FRE 1003</u>.</p>	<p>Sustained _____</p> <p>Overruled _____</p>

1	Evidentiary Objection	<u>FRE 901</u> , lacks	
2	No. 2:	foundation/authentication. Plaintiff's	
3		P2/RJN is not authenticated by any	Sustained _____
4	Plaintiff's P2/RJN to	affidavits, declarations, or answers to	Overruled _____
5	Plaintiff's Statement of	discovery. Plaintiff's P2/RJN lacks	
6	Genuine Disputes of	foundation and is not authenticated.	
7	Material Facts by	<u>FRE 201</u> , P2/RJN is (1) not generally	
8	Nonmoving Party.	known within the Court's territorial	
9	(Dkt. No. 115-3).	jurisdiction and (2) can not be	
10		accurately and readily determined from	
11		sources whose accuracy cannot	
12		reasonably be questioned.	
13		<u>FRE 1002</u> , Best evidence rule.	
14		<u>FRE 1003</u> .	
15	Evidentiary Objection	<u>FRE 901</u> , lacks	
16	No. 3:	foundation/authentication. Plaintiff's	
17		P3/RJN is not authenticated by any	Sustained _____
18	Plaintiff's P3/RJN to	affidavits, declarations, or answers to	Overruled _____
19	Plaintiff's Statement of	discovery. Plaintiff's P3/RJN lacks	
20	Genuine Disputes of	foundation and is not authenticated.	
21	Material Facts by	<u>FRE 201</u> , P3/RJN is (1) not generally	
22	Nonmoving Party.	known within the Court's territorial	
23	(Dkt. No. 115-4).	jurisdiction and (2) can not be	
24		accurately and readily determined from	
25		sources whose accuracy cannot	
26		reasonably be questioned.	
27		<u>FRE 1002</u> , Best evidence rule.	
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1		<u>FRE 1003.</u>	
2	Evidentiary Objection	<u>FRE 901</u> , lacks	
3	No. 4:	foundation/authentication. Plaintiff's	
4		P4/RJN is not authenticated by any	Sustained _____
5	Plaintiff's P4/RJN to	affidavits, declarations, or answers to	Overruled _____
6	Plaintiff's Statement of	discovery. Plaintiff's P4/RJN lacks	
7	Genuine Disputes of	foundation and is not authenticated.	
8	Material Facts by	<u>FRE 201</u> , P4/RJN is (1) not generally	
9	Nonmoving Party.	known within the Court's territorial	
10	(Dkt. No. 115-5).	jurisdiction and (2) can not be	
11		accurately and readily determined from	
12		sources whose accuracy cannot	
13		reasonably be questioned.	
14		<u>FRE 401/402</u> , Irrelevant.	
15		<u>FRE 1002</u> , Best evidence rule.	
16		<u>FRE 1003.</u>	
17	Evidentiary Objection	<u>FRE 901</u> , lacks	
18	No. 5:	foundation/authentication. Plaintiff's	
19		P5/RJN is not authenticated by any	Sustained _____
20	Plaintiff's P5/RJN to	affidavits, declarations, or answers to	Overruled _____
21	Plaintiff's Statement of	discovery. Plaintiff's P5/RJN lacks	
22	Genuine Disputes of	foundation and is not authenticated.	
23	Material Facts by	<u>FRE 201</u> , P5/RJN is (1) not generally	
24	Nonmoving Party.	known within the Court's territorial	
25	(Dkt. No. 115-6).	jurisdiction and (2) can not be	
26		accurately and readily determined from	
27		sources whose accuracy cannot	
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1		reasonably be questioned.	
2		<u>FRE 401/402</u> , Irrelevant.	
3		<u>FRE 1002</u> , Best evidence rule.	
4		<u>FRE 1003</u> .	
5	Evidentiary Objection	<u>FRE 901</u> , lacks	
6	No. 6:	foundation/authentication. Plaintiff's	
7		P6/RJN is not authenticated by any	Sustained _____
8	Plaintiff's P6/RJN to	affidavits, declarations, or answers to	Overruled _____
9	Plaintiff's Statement of	discovery. Plaintiff's P6/RJN lacks	
10	Genuine Disputes of	foundation and is not authenticated.	
11	Material Facts by	<u>FRE 201</u> , P6/RJN is (1) not generally	
12	Nonmoving Party.	known within the Court's territorial	
13	(Dkt. No. 115-7).	jurisdiction and (2) can not be	
14		accurately and readily determined from	
15		sources whose accuracy cannot	
16		reasonably be questioned.	
17		<u>FRE 401/402</u> , Irrelevant.	
18		<u>FRE 1002</u> , Best evidence rule.	
19		<u>FRE 1003</u> .	
20	Evidentiary Objection	<u>FRE 901</u> , lacks	
21	No. 7:	foundation/authentication. Plaintiff's	
22		P7/RJN is not authenticated by any	Sustained _____
23	Plaintiff's P7/RJN to	affidavits, declarations, or answers to	Overruled _____
24	Plaintiff's Statement of	discovery. Plaintiff's P7/RJN lacks	
25	Genuine Disputes of	foundation and is not authenticated.	
26	Material Facts by	<u>FRE 201</u> , P7/RJN is (1) not generally	
27	Nonmoving Party.	known within the Court's territorial	
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1	(Dkt. No. 115-8).	jurisdiction and (2) can not be	
2		accurately and readily determined from	
3		sources whose accuracy cannot	
4		reasonably be questioned.	
5		<u>FRE 401/402</u> , Irrelevant.	
6		<u>FRE 1002</u> , Best evidence rule.	
7		<u>FRE 1003</u> .	
8	Evidentiary Objection	<u>FRE 901</u> , lacks	
9	No. 8:	foundation/authentication. Plaintiff's	Sustained _____
10		P8/RJN is not authenticated by any	
11	Plaintiff's P8/RJN to	affidavits, declarations, or answers to	Overruled _____
12	Plaintiff's Statement of	discovery. Plaintiff's P8/RJN lacks	
13	Genuine Disputes of	foundation and is not authenticated.	
14	Material Facts by	<u>FRE 201</u> , P8/RJN is (1) not generally	
15	Nonmoving Party.	known within the Court's territorial	
16	(Dkt. No. 115-9).	jurisdiction and (2) can not be	
17		accurately and readily determined from	
18		sources whose accuracy cannot	
19		reasonably be questioned.	
20		<u>FRE 401/402</u> , Irrelevant.	
21		<u>FRE 1002</u> , Best evidence rule.	
22		<u>FRE 1003</u> .	
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1	Evidentiary Objection	<u>FRE 901</u> , lacks	
2	No. 9:	foundation/authentication. Plaintiff's	
3		P9/RJN is not authenticated by any	Sustained _____
4	Plaintiff's P9/RJN to	affidavits, declarations, or answers to	Overruled _____
5	Plaintiff's Statement of	discovery. Plaintiff's P9/RJN lacks	
6	Genuine Disputes of	foundation and is not authenticated.	
7	Material Facts by	<u>FRE 201</u> , P9/RJN is (1) not generally	
8	Nonmoving Party.	known within the Court's territorial	
9	(Dkt. No. 115-10).	jurisdiction and (2) can not be	
10		accurately and readily determined from	
11		sources whose accuracy cannot	
12		reasonably be questioned.	
13		<u>FRE 401/402</u> , Irrelevant.	
14		<u>FRE 1002</u> , Best evidence rule.	
15		<u>FRE 1003</u> .	
16	Evidentiary Objection	<u>FRE 901</u> , lacks	
17	No. 10:	foundation/authentication. Plaintiff's	
18		P10/RJN is not authenticated by any	Sustained _____
19	Plaintiff's P10/RJN to	affidavits, declarations, or answers to	Overruled _____
20	Plaintiff's Statement of	discovery. Plaintiff's P01/RJN lacks	
21	Genuine Disputes of	foundation and is not authenticated.	
22	Material Facts by	<u>FRE 201</u> , P10/RJN is (1) not generally	
23	Nonmoving Party.	known within the Court's territorial	
24	(Dkt. No. 115-11).	jurisdiction and (2) can not be	
25		accurately and readily determined from	
26		sources whose accuracy cannot	
27		reasonably be questioned.	
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1		<u>FRE 1002</u> , Best evidence rule.	
2		<u>FRE 1003</u> .	
3	Evidentiary Objection	<u>FRE 401/402</u> , statement is vague,	
4	No. 11:	compound, lacks foundation misstates	
5	"In any event, it is	the evidence and is unsupported by the	Sustained ____
6	disputable whether the	evidence.	Overruled ____
7	entity is a disregarded		
8	or partnership entity."		
9	Plaintiff's Response to		
10	Undisputed Material		
11	Fact No. 1 Cited Fact		
12	and Supporting		
13	Evidence. (Dkt. No.		
14	115 at 3.)		
15	Evidentiary Objection	<u>FRE 401/402</u> , statement is vague,	
16	No. 12:	compound, lacks foundation misstates	
17	"The Plaintiff has also	the evidence and is unsupported by the	Sustained ____
18	'pierced the corporate	evidence.	Overruled ____
19	veil' which in all	<u>FRE 701</u> , speculation.	
20	fairness and justice	<u>FRE 703</u> , improper legal conclusion.	
21	must be set aside to	Plaintiff did not plead in Plaintiff's	
22	prevent fraud and	Complaint that he is the alter ego of	
23	ensure equity."	Atlas LLC and "Plaintiff has also	
24	Plaintiff's Response to	pierced the corporate veil." Plaintiff's	
25	Undisputed Material	claim to have "pierced the corporate	
26	Fact No. 1 Cited Fact	veil" on himself is without foundation,	
27	and Supporting	not supported by competent evidence,	
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<p>Evidence. (Dkt. No. 115 at 3.)</p> <p>///</p> <p>///</p> <p>///</p> <p>///</p>	<p>and is wholly conclusory. Plaintiff did not mention Atlas LLC in his complaint, nor that Atlas LLC was his Alter-Ego as he is attempting to allege now and that the corporate veil does not exist. Plaintiff has not alleged that he is a member of Atlas LLC either. Ninth Circuit precedent holds that raising a claim on summary judgment that is not pled in the complaint is impermissible. “[W]here, as here, the complaint does not include the necessary factual allegations to state a claim, raising such claim in a summary judgment motion is insufficient to present the claim to the district court.” <i>Navajo Nation v. U.S. Forest Service</i>, 535 F.3d 1058, 1080 (9th Cir. 2008); <i>Wasco Prods., Inc. v. Southwall Techs., Inc.</i>, 435 F.3d 989, 992 (9th Cir. 2006) (same); <i>Coleman v. Quaker Oats Co.</i>, 232 F.3d 1271, 1291-92 (9th Cir. 2000) (same).</p>	
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1	Evidentiary Objection	<u>FRE 401/402</u> , statement is vague,	
2	No. 13:	compound, lacks foundation misstates	
3	"The terms of the	the evidence and is unsupported by the	Sustained _____
4	"Partnership Grand	evidence.	Overruled _____
5	Deed" are void and the	<u>FRE 701</u> , speculation.	
6	Court should declare	<u>FRE 703</u> , improper legal conclusion.	
7	so."		
8	Plaintiff's Response to		
9	Undisputed Material		
10	Fact No. 5 Cited Fact		
11	and Supporting		
12	Evidence. (Dkt. No.		
13	115 at 6.)		
14	Evidentiary Objection	<u>FRE 401/402</u> , statement is vague,	
15	No. 14:	compound, lacks foundation misstates	Sustained _____
16	"There is a genuine	the evidence and is unsupported by the	Overruled _____
17	dispute of material fact	evidence.	
18	as to whether the	<u>FRE 701</u> , speculation.	
19	County could deny the	<u>FRE 703</u> , improper legal conclusion.	
20	project if it was		
21	preempted by Federal		
22	law not to do so."		
23	Plaintiff's Response to		
24	Undisputed Material		
25	Fact No. 8 Cited Fact		
26	and Supporting		
27	Evidence. (Dkt. No.		
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1	115 at 9.)		
2	Evidentiary Objection	FRE 401/402, statement is vague,	Sustained _____ Overruled _____
3	No. 15:	compound, lacks foundation misstates	
4	"The prohibition says	the evidence and is unsupported by the	
5	nothing about structure-	evidence.	
6	mounted-utility scale	FRE 701, speculation.	
7	facilities in SEA's."	FRE 703, improper legal conclusion.	
8	Plaintiff's Response to	Plaintiff did not plead in Plaintiff's	
9	Undisputed Material	Complaint that his solar farm	
10	Fact No. 9 Cited Fact	application was a structure-mounted-	
11	and Supporting	utility scale facility, instead only	
12	Evidence. (Dkt. No.	ground mounted utility scale solar	
13	115 at 11.)	facilities were mentioned in the	
14		Complaint. Specifically, the Complaint	
15		states Plaintiff's solar farm project at	
16		27250 Agoura Road was rejected	
17		because " <u><i>Ground mounted utility scale</i></u>	
18		solar facilities are not permitted in	
19		Significant Ecological Areas as	
20		described in section	
21		22.140.510(C)(5)(a)..." (emphasis	
22		added) (Plaintiff quoting the rejection	
23		letter received by Plaintiff from	
24		Defendant Clark Taylor, Regional	
25		Planner.) (See ECF No. 1 at 4:12-19.)	
26		Ninth Circuit precedent holds that	
27		raising a claim on summary judgment	
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	that is not pled in the complaint is impermissible. “[W]here, as here, the complaint does not include the necessary factual allegations to state a claim, raising such claim in a summary judgment motion is insufficient to present the claim to the district court.” <i>Navajo Nation v. U.S. Forest Service</i> , 535 F.3d 1058, 1080 (9th Cir. 2008); <i>Wasco Prods., Inc. v. Southwall Techs., Inc.</i> , 435 F.3d 989, 992 (9th Cir. 2006) (same); <i>Coleman v. Quaker Oats Co.</i> , 232 F.3d 1271, 1291-92 (9th Cir. 2000) (same).	
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IT IS SO ORDERED.

DATED: January ___, 2024

Hon. Karen L. Stevenson